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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,874	03/31/2001	Carolyn Ramsey Catan	US010157	7124

7590 03/26/2003

Corporate Patent Counsel
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EXAMINER

NGUYEN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,874

Applicant(s)

CATAN, CAROLYN RAMSEY

Examiner

Kimberly D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-17 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the Amendment filed 8 January 2003.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Montanari et al. (US 5,478,990).

Montanari teaches a system for tracking descriptive information about a changeable article which comprises

a machine readable label (MRL) R-TN attachable to food product, which serves as articles (figs. 1-2);

one or more processors connectable to a MRL reader and programmed to create an association between data stored in an MRL with particular data describing a given article and store the association in a data store;

the particular data including a changeable characteristic of the given article;

the one or more processors being programmed to scan the MRL and permit a user to complete a transaction involving the given article including reading the particular data in the data

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store, the transaction being responsive to the particular data (see figs. 1-6; col. 6, lines 10-36; col. 7, lines 39-61; col. 10, lines 19-27; col. 10, lines 51-61; col. 11, lines 8-61; col. 14, lines 11-16).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari in view of O'Hagan et al. (US 5,821,512). The teachings of Montanari have been discussed above.

Montanari fails to specifically teach a tracking information system wherein the correlation in the data store is automatically deleted.

O'Hagan teaches a system for tracking information 18 wherein the correlation in the data store is automatically deleted responsively to one or more predetermined events (see fig. 6, step 318; col. 11, lines 4-34).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the notoriously old and well known automatic data deletion as taught by O'Hagan to the teachings of Montanari in order to ease the users from tracking the items themselves (i.e., one will automatically delete the item from the list if the item had been sold out) and to further prevent unwanted duplication of items being processed/purchased.

Allowable Subject Matter

6. Claims 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 14-17 are allowed.

8. The following is a statement of reasons for the indication of allowable subject matter:

Montanari as modified by O'Hagan fails to teach a step of the correlation in the data store is automatically deleted responsively to one or more predetermined events, wherein the one or more predetermined events includes the passage of a predetermined period of time after the step of storing a correlation.

One of ordinary skill in the art would not have been motivated to modify the teachings of Montanari as modified by O'Hagan in order to obtain a step of the correlation in the data store is automatically deleted responsively to one or more predetermined events, wherein the one or more predetermined events includes the passage of a predetermined period of time after the step of storing a correlation, as set forth in the claims.

Response to Arguments

9. In response to the Applicant's argument with regard to "a changeable characteristic of a given article and/or certain profile data characterizing a user" (page 5, lines 8-10), the examiner respectfully request the Applicant to further review the new added limitation (i.e., a changeable characteristic of a given article and/or certain profile data characterizing a user), by giving its broadest reasonable interpretation, wherein the **and/or** can be interpreted as "or", for example, "particular data describing a give article includes a changeable characteristic of a given article **or**

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“certain profile data characterizing a user”, as interpreted by the examiner. Therefore, the “certain profile data characterizing a user” will not be weighted into the claim(s).

10. In response to the Applicant’s argument with regard to “at a retail establishment, storing a correlation between descriptive information about article and unique code in a data store; and reading unique code at a location other than retail establishment” (page 5, last 3 lines through page 5, line 2), the examiner respectfully request the Applicant to further review Montanari by giving its broadest interpretation; wherein “the tag TN identifying a particular food product at a certain point in the production process” (col. 3, lines 1-3) which serves as a unique code; “the tracking number is maintained as the animal is transferred from raiser, distributor, and consumer” (col. 3, lines 40-43) and “The labels produced during the process are periodically scanned in different stages of the process to add additional information thereto...” (col. 3, lines 49-54) which serves as “at a retail establishment, storing a correlation between descriptive information about article and unique code in a data store; and reading unique code at a location other than retail establishment”.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 703-305-1798. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-1341 for regular communications and 703-305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-8792.

KDN
March 24, 2003



KARL D. FRECH
PRIMARY EXAMINER